BRITISH COLUMBIA

Drinking and Driving Issues and Strategies in British Columbia

DISCUSSION PAPER
June 2003

#PSSG03025-1

105-04802/

Drinking and Driving Issues and Strategies in British Columbia
DISCUSSION PAPER – June 2003

Table of Contents

1. Introduction 1

2. Why Have Gains Levelled Off in British Columbia? 2
- Drivers are Unaware of the Consequences 2
- Low Risk of Being stopped and Charged 3
- Criminal Charge Delay and Uncertainty 3
- No Measures for Problem Drinkers 4

3. Strategies to Reduce Impaired Driving 5
- Public Education and Awareness 5
- Managing the Opportunity to Drink and Drive 6
- Enforcement 7
- Sanctions 8
- Rehabilitation 12

4. A Working Model 14
- Public Education and Awareness 14
- Enforcement 14
- Sanctions 14

5. Conclusion 16
- A Note on Funding 16
- Questions to Keep in Mind 16

6. References 17

APPENDIX 1: The Drinking and Driving Problem in British Columbia 19

APPENDIX 2: Current Measures/Programs Deployed in British Columbia 22

APPENDIX 3: Synopsis: Proposed Strategies to Reduce Impaired Driving in British Columbia 24

1. INTRODUCTION

Impaired driving takes a devastating toll on families in B.C. In 2001, one hundred and eighteen people died in alcohol related road crashes. However, there has been considerable improvement over the last 25 years. In 2000, 30 per cent of passenger car fatalities involved a driver whose blood alcohol content exceeded the legal limit. This represents a dramatic improvement over the peak year, 1981, when 65 per cent of fatalities involved a drunk driver. Unfortunately, these gains have levelled off in the last few years.

There is also evidence that public attitudes about impaired driving have not kept up with those in other jurisdictions. Although 80 per cent of British Columbians identify drinking driving as a serious problem in a 2002 survey, that number is lower than Ontario (86 per cent) and Quebec (90 per cent). In that same survey, 11.3 per cent of B.C. drivers reported driving while feeling impaired at least once in the past two months. The equivalent number in Ontario was 5.4 per cent.

This translates into a minimum of 2.5 million trips a year by drivers whose blood alcohol level exceeds the legal limit. Clearly, the problem is not going away.

Some of the proposals in this discussion paper are adapted from successful programs in other jurisdictions. For example, B.C. is the only jurisdiction in Canada without a compulsory treatment program for problem drinkers who drive when they are significantly over the blood alcohol limit.

Other proposals reflect changes in our understanding of the problem. Much of our effort in the past has been directed at persistent offenders, yet most individuals found driving while over the limit are not repeat offenders. We also need approaches that will effectively deal with those who are unlikely to repeat their behaviour.

We also need to put our resources where they will do the most good. For all drivers, the risk of a fatal crash increases exponentially as the blood alcohol level increases. A 35-year-old with a blood alcohol level of 80 mg% is eleven times more likely to have a fatal single car crash than the same age driver with no alcohol in the blood. At a level of 100 mg%, the likelihood of a fatal crash is 29 times. Take a 16 to 20-year-old and the likelihood of a fatal crash increases to 52 times and 241 times over a similar age driver with no alcohol in the blood. The combination of inexperienced drinker and inexperienced driver is dramatically dangerous. Finding ways to deal more effectively with this group will likely be well worth the investment.

Reducing the harm caused by drinking driving is a crucial part of the New Era commitment to public safety. The following paper reviews the current situation in British Columbia and proposes a number of strategies for public discussion leading to new policy and legislative initiatives to reduce the carnage.

2. WHY HAVE GAINS LEVELLED OFF IN BRITISH COLUMBIA?

General deterrence depends on drivers knowing and being motivated to avoid the consequences of drinking and driving (Ross, 1982, 1992). The effectiveness of a deterrent varies with:

- how quickly the consequences of drinking and driving follow the behaviour (swiftness)
- the actual risk that someone will be caught and sanctioned if they drink and drive (certainty) and how significant the consequences are (severity)

A number of factors may be detracting from the effectiveness of these measures in British Columbia:

- drivers are unaware of the consequences of drinking and driving
- low risk of a drinking driver being stopped
- low risk of being charged if stopped
- slow disposition of criminal cases and uncertainty of conviction
- no compulsory treatment countermeasures for problem drinkers

Drivers are Unaware of the Consequences

Many British Columbians are unaware of the consequences of drinking and driving or do not believe that they will happen. ICBC conducts a Quarterly Transportation Safety Tracking Survey, which found in the fall of 2002 that:

- 48 per cent of respondents were unaware of the driving suspension length for a first conviction under the Criminal Code
- just 17 per cent of those surveyed believed that a drinking driver would be convicted of impaired driving

ICBC's fall 1999 quarterly survey examined the general public's knowledge of the drinking and driving sanctions they could face without going to court. The survey found:

- 44 per cent could not identify a single administrative sanction that a driver faces for driving with blood alcohol content (BAC) over 80 mg% or refusing a breath test;
- 98 per cent of drivers did not know about the 90-day administrative driving prohibition for drivers who fail or refuse a breath test;
- 63 per cent of respondents did not believe it likely that a driver failing or refusing a blood alcohol test would lose their licence for 90 days or more.

Currently, public information messages about drinking and driving focus on raising awareness of the police CounterAttack enforcement campaigns. Future public information campaigns may need to emphasize other aspects of the province's drinking and driving awareness programs.

Low Risk of Being Stopped and Charged

Section 215 of the provincial Motor Vehicle Act allows a police officer to issue a 24-hour prohibition to a driver if the officer believes the driver's ability to operate a vehicle is affected by alcohol (or another substance.) The main purpose of this short prohibition is to prevent the driver from continuing driving until there is reasonable period for the effects of alcohol to wear off. The section 215 prohibition is not intended as a substitute for more severe charges if they are warranted.

In British Columbia between 1995 and 2001:

- The number of impaired driving charges recommended by police decreased by 20 per cent (from 8,738 to 6,932);
- The number of section 215 (24-hour) driving prohibitions increased by 13 per cent (from 38,791 to 43,923),

Not all of the increase in 24-hour prohibitions would have been issued in circumstances when the driver's blood alcohol exceeded the Criminal Code limit. However, there is a growing trend for police officers to use the 24-hour driving prohibition for drinking drivers instead of investigating and laying criminal charges.

Officers surveyed during the provincial Traffic Services Study (Ministry of Attorney General 2000) suggest that police are becoming more reluctant to proceed with or recommend the more severe criminal charges for a number of reasons:

- the time it takes to process the charge (62 per cent)
- insufficient staff to process the impaired driver (49 per cent)
- drivers unlikely to be found guilty of the charge (40 per cent)
- drivers likely to plead to a lesser or included offence (36 per cent)

In British Columbia, a driver who has four 24-hour prohibitions in two years may receive an additional administrative driving prohibition averaging about three months depending on the entire driving record. To the extent that the 24-hour prohibition substitutes for more severe charges, the consequences are slight and do not carry the deterrence effects of penalties under criminal drinking and driving measures.

Criminal Charge Delay and Uncertainty

In addition to the fines and licence prohibitions established under the Criminal Code, a conviction for impaired driving in British Columbia leads to mandatory one-year, three-year or indefinite licence suspension for a first, second or third and subsequent conviction[1]. Although the provincial suspensions for criminal drinking and driving convictions are severe, their effectiveness as deterrents may be compromised by lack of "swiftness" and "certainty". Drinking and driving charges are far more likely than other criminal provincial court matters to need a trial to reach resolution, a process that can take up to 18 months to complete. In 2002:

[1] An indefinite suspension can be reduced to 10 years if the driver takes an approved assessment and remedial program, but British Columbia has not yet established such a program.

- 25 per cent of all the trials scheduled in Provincial Court were for impaired driving;
- 34 per cent of all impaired driving cases resulted in a trial being scheduled or held compared to six to seven per cent of all other criminal cases combined.

The conviction rate for Criminal Code drinking and driving charges in British Columbia is 70 per cent. There are many evidentiary problems in prosecuting these sorts of offences, the court process is often time consuming and there can be long delays. When Crown counsel is unable to prove the criminal offence, they may accept a plea to a Motor Vehicle Act offence. Approximately 20 per cent of Criminal Code charges for impaired driving result in a guilty plea to a lesser included offence under the Motor Vehicle Act with the most common offence being that of 'driving without due care and attention'. The Motor Vehicle Act offences often carry a lesser fine, no automatic driving prohibition and no record of driving under the influence of alcohol.

No Measures for Problem Drinkers

Addictions specialists view drinking and driving behaviour as an indicator that the driver has a drinking problem. Between 30 and 50 per cent of drinking and driving offenders may be problem drinkers (Vingilis, 1983).

Other researchers assert that high BAC levels indicate an alcohol misuse problem (Simpson, Mayhew and Beirness, 1996). Twenty-five per cent of British Columbia's fatally injured drivers in 2002 had BACs in excess of 150 mg% (Mayhew, Brown and Simpson, 2002). Mayhew et. al. argue that those who drive at high BAC levels are substantially over-represented among driver fatalities.

Simpson and Robertson (2002) argue that these so-called "hard-core" drinkers are a significant risk group that that will benefit from measures to address an underlying drinking problem.

British Columbia is the only province, however, that does not have a compulsory rehabilitation program for drinking drivers. Rehabilitation programs use assessment, education and treatment to modify the drinking driver's behaviour.

The greatest potential for gains against the drinking and driving problem may lie in renewing and enhancing programs that deter the average British Columbia driver from engaging in the behaviour. Nearly twenty per cent of the province's driving population continues to drink and drive. Sixty per cent of drinking drivers are 'social drinkers', many of whom have never been apprehended while driving under the influence of alcohol (Chamberlain and Solomon, 2001).

3. STRATEGIES TO REDUCE IMPAIRED DRIVING

Impaired driving remains a significant safety issue in British Columbia. Although there has been a long-term decline in the rate of drinking and driving problem, the rate has recently levelled off. As outlined in section 2, a number of factors may be contributing to the recent levelling off.

This section of the paper identifies potential strategies to address these factors. Input from the public and knowledgeable stakeholders will support the development of detailed proposals for government's consideration.

Public Education and Awareness

Education and awareness programs include media, community based, and school based approaches that aim to deter drinking and driving by spreading knowledge about the behaviour and its consequences. Themes include publicizing:

- specific enforcement efforts and sanctions
- the effects of alcohol on driving ability
- the safety, family and social impacts of drinking and driving
- when and why drinking and driving occurs, and
- alternative transportation strategies like designated driver programs.

Education and awareness programs can create general public knowledge about the seriousness of the drinking and driving problem and help inform social attitudes about drinking and driving.

ICBC funds the development of drinking and driving education and awareness programs. The Broadcasters' Association of B.C. provides free television and radio air-time for CounterAttack advertising with an estimated value in 2002 of approximately $100,000 per month.

Appendix 2 lists current education and awareness programs in British Columbia.

Education and Awareness Issues and Strategies

Issue: Although 80 per cent of British Columbians see drinking and driving as a serious social problem, this rate is lower than in other regions of the country. Awareness of drinking driving issues is relatively low, as is knowledge of the consequences of drinking and driving and the perceived risk of being caught and encountering sanctions. CounterAttack messages focus primarily on publicizing periods of intense enforcement.

Strategy: Augment current messages increase awareness of issues including:

- what happens when a drinking driver is caught
- general awareness of drinking and driving issues
- changes that may result from other strategies outlined in this paper

Strategy: Increase impaired driving education in secondary schools.

Car crashes are the number one killer of youth in B.C. and young people need to understand the consequences of impaired driving. Awareness could be improved by including road safety as a mandatory curriculum component in secondary schools.

Issue: There are several agencies within government (for example, ICBC and CounterAttack, Liquor Distribution, Liquor Control and Licensing) and external to government (for example, Mothers Against Drunk Driving, Liquor Manufacturers, media) who produce, distribute or broadcast drinking and driving related public awareness material. There may be opportunities to coordinate strategies to cover impaired driving issues more effectively and to optimize the use of available resources.

Strategy: Develop a strategic plan for drinking and driving education and awareness programs that focuses on optimising the use of existing resources, developing internal and external partnerships, and identifying objectives and success measures. Measures should include changes in public knowledge and regard for the significance of drinking and driving issues

Managing the Opportunity to Drink and Drive

A number of initiatives have recently been implemented that focus on the safe and responsible use of liquor.

In 2002, government simplified liquor regulations to focus enforcement efforts in four areas: underage drinking, intoxication, overcrowding and sale of illegal liquor. The first two areas have a direct impact on drinking and driving.

Liquor licensees are now required to check for two pieces of identification from anyone who appears to be under the age of 25. In January 2003, the Liquor Control and Licensing Branch began using agents between the ages of 19 and 25 to enter licensed establishments, including licensee retail stores, to check whether licensees are in compliance with the act and regulations governing service to minors. On March 17, 2003, the Liquor Distribution Branch announced that government liquor stores would check two pieces of identification for anyone appearing to be under the age of 25.

The police have entered into formal undertakings to include liquor inspectors in the investigation of serious collisions involving alcohol to determine if a licensee over-served or if a minor was served. Liquor inspectors can then determine if enforcement action against the licensee is warranted.

One type of drinking and driving program aims to manage the choice whether to drink and drive in the setting where alcohol is being consumed.

For example, alternative transportation programs encourage people who are planning to drink also to plan transportation other than driving. Designated driver programs encourage groups that are drinking to select a person who remains sober to drive.

Ride programs provide free or inexpensive alternative transportation for drinkers. These programs range from subsidized public transportation to volunteer-run ride-home operations. Ride programs often focus on particular occasions such as New Year's Eve or beer and wine festivals.

Server intervention programs aim to manage the customers' consumption and impairment by training staff in licensed establishments to serve alcohol responsibly. An effective server intervention program can reduce the incidence of impaired drivers leaving bars and restaurants by 17 to 18 per cent, though effects vary with intensity, quality, training and degree of management support. (Shults et al., 2001).

Appendix 2 lists programs of this type currently operating in British Columbia.

Opportunity Management Issues and Strategies

Issue: Liquor establishments and servers must participate in the provincial server intervention program (Serving it Right) sponsored by the Hospitality Industry Advisory Committee. However, there are some concerns about the program. Servers take an open book exam and there is little to prevent a server having someone else take the exam. There are no training refreshers. The penalty for not having a valid certification is often a warning, although enforcement action may be taken against the licensee or server where warranted. Servers in licensed restaurants are not currently required to complete the program unless they are working in a separate licensed lounge. The Liquor Control and Licensing Branch is undertaking a comprehensive review of the program in 2003.

Participation by licensed establishments in designated driver programs is optional.

Strategy: Work with the hospitality industry to enhance server intervention training and examination requirements, increase enforcement of the requirement and provide consequences to servers and establishments that do not meet requirements.

Strategy: Provide promotional material and require liquor establishments to promote designated driver strategies.

The main challenge in developing these strategies would be ensuring the requirements are practical and the cost to servers and establishments are reasonable.

Enforcement

Enforcement is the cornerstone of programs to deter drinking and driving, creating the real likelihood that a drinking driver will be caught. The effectiveness of intense, high profile "spot check" enforcement is well established. Enforcement measures such as highly visible roadside checkpoints can reduce accidents by 22-35 per cent (Elder, et al, 2002; Shults, et al, 2001).

Appendix 2 shows current enforcement initiatives in British Columbia.

Enforcement Issues and Strategies

Issue: Traffic enforcement, including drinking and driving enforcement, faces increasing competition for policing resources.

Strategy: Revitalize the provincial drinking and driving enforcement strategy, including:

- enhanced availability of officers
- flexibility to deploy enforcement when and where needed
- data collection and monitoring to support planning and strategic deployment
- training in alcohol and drug impairment recognition

Issue: A police officer may initiate a 90-day administrative driving prohibition (ADP) under the provincial Motor Vehicle Act if a driver refuses a breath test or the officer obtains an analysis of breath to indicate that the driver's BAC exceeded 80 mg% within three hours of driving. Police currently rely on the use of a breath analysis instrument approved under the Criminal Code of Canada to provide the evidence in support of the ADP. The process involved in obtaining the breath sample is time consuming, involving, for example, transporting the driver to the police station where the testing device is located.

Police report that ADPs are not used as frequently as may be warranted and that they often substitute a 24-hour prohibition.

Strategy: Use approved roadside blood alcohol screening devices to collect evidence in support of an ADP.

The Criminal Code of Canada prescribes approved blood alcohol screening devices for use at the roadside. These devices are designed to determine the presence of blood alcohol via a breath sample. The typical device has an indicator to show when a person's BAC exceeds 80 mg%, but does not show the precise BAC reading. Linking the ADP to the use of an approved blood alcohol screening device would make it easier for police to obtain the evidence needed to proceed with an ADP and reduce the enforcement resources needed to process the prohibition.

There is some opposition to the current ADP program among criminal defence lawyers, who believe that criminal standards of evidence should apply and that only the courts should handle drinking and driving matters.

Sanctions

Appendix 2 shows the sanctions presently in place in British Columbia for drinking drivers.

Chamberlain and Solomon (2002) make the argument that tough sanctions should begin to apply at BAC levels of 50 mg% rather than the current criminal level of 80 mg%. They note, for example, that the risk of being in a traffic crash is clearly elevated at a BAC of 50 mg%. According to the Traffic Injury Research Foundation's December 2002 survey; however, there is little public support for such a measure (Beirness, Simpson and Desmond, 2002). Just 36 per cent of British Columbians supported the idea of lowering the BAC at which tough sanctions kick in.

Driver licence suspensions and prohibitions are the most effective sanctions against drinking and driving (Nichols and Ross, 1988). However, some criminal defence lawyers have suggested that the severity of the licence suspensions in British Columbia motivates drivers to contest rather than accept the consequences of drinking and driving. It has been speculated that penalties, especially for first offenders, are more than is required to prevent repeat incidents and the stigma of being arrested and charged may be enough in itself to deter most drinking drivers.

It is important to distinguish between the general deterrence objective of a sanction to prevent drinking and driving among all drivers, and its specific deterrent objective to prevent repetition by those who have already been caught. Arrest and contact with the criminal justice system may be a deterrent to further offences by someone who has been caught. The threat of such contact, however, absent the threat of severe sanctions, may not work to deter people who have not already been through the criminal justice system.

Drinking drivers who are able to avoid licence suspensions altogether by opting for relatively less severe consequences (e.g., treatment), have higher recidivism rates and a 30 per cent higher collision rate than drinking drivers who served a licence suspension. (Nichols and Ross, 1988; Wells-Parker et al., 1995). At the same time little is known about the optimal length of a licence suspension, and sanctions are of little effect if they are not imposed because charges are not laid or convictions are hard to obtain.

Sanctions: Issues and Strategies

Issue: The increase in the use of 24-hour driving prohibitions suggests that criminal charges are not being used as often as the circumstances may warrant, and that has reduced the consequences of being caught drinking and driving.

Strategy: Supplement section 215 of the Motor Vehicle Act to establish a separate 24-hour prohibition based on the driver attaining a "warn" result (BAC of 50 mg% or greater) in a roadside breath test using an approved screening device. A mandatory 90-day driving prohibition would be established for drivers who accumulate two such 24-hour prohibitions in a particular period of time (for example, within two years.)

At present, the Superintendent of Motor Vehicles imposes a longer driving prohibition on someone who receives four 24-hour prohibitions within two years. At this threshold the courts have recognized multiple 24-hour prohibitions as a legitimate basis for the more severe driver licensing sanction. However, the 24-hour prohibition can be based on the subjective opinion of a police officer with no practical opportunity for the driver to challenge the validity of the prohibition. Consequently, the courts have said that the Superintendent must take into account a driver's version of the circumstances and not proceed with the longer prohibition if the basis for an underlying 24-hour prohibition is questionable. The use of a roadside screening device may establish an acceptable objective basis to take stronger follow-up action for drivers' accumulating fewer 24-hour prohibitions.

Issue: Alcohol related crash risk is substantial at BACs below the criminally culpable level of 80 mg%.

This issue is addressed somewhat by the previous strategy to create a separate 24-hour prohibition based on a "warn" (50 mg% BAC) result from a roadside screening device and to mandate a 90-day driving prohibition for drivers who get two of these.

There are advocates of a more aggressive approach at the lower BAC level however. The Traffic Safety Committee of the British Columbia Association of Chiefs of Police, for example, has recommended that the province establish a Motor Vehicle Act infraction that would sanction drivers for any driving with a BAC of 50 mg%, without engaging full criminal consequences.

Strategy: Expand the 90-day Administrative Driving Prohibition (ADP) program to apply to drivers who register a BAC of 50 mg% within three hours of driving.

Currently, a driver whose BAC tests at 80 mg% or greater within three hours of driving receives a 90-day administrative driving prohibition. The prohibition comes into effect 21 days after the event unless the driver is successful in a review conducted by the Office of the Superintendent of Motor Vehicles.

This proposed strategy would expand the existing ADP program and apply the 90-day prohibition to drivers at the lower BAC level.

This strategy is a more aggressive response to driving at the lower BAC level and would be done instead of the 24-hour prohibition strategy mentioned above. By contrast, this proposal to expand the application of the 90-day prohibition would see the longer sanction imposed for one rather than two instances of driving at a BAC of 50 mg%. As a consequence of the more severe sanction being at stake for a single such instance, it may be necessary to proceed on the basis of a full breathalyser exam carried out at police facilities rather than the results of an approved roadside screening device. Obtaining the breathalyzer result is a more time consuming process.

There is some opposition to the current ADP program among criminal defence lawyers, who believe that drinking and driving matters should be handled exclusively through the courts.

Issue: Current licensing sanctions motivate drivers to fight drinking and driving criminal charges, and criminal consequences are neither swift nor certain for those who do fight.

Strategy: Reduce offenders' motivation to contest charges by allowing provisional driver's licences for work purposes for convicted drinking drivers.

The Criminal Code mandates minimum driving prohibitions of one, two and three years for first, second and third or subsequent criminal drinking and driving prohibitions. The province has no authority to provide provisional licences during the period of prohibition mandated by the Criminal Code.

However, provincial legislation adds an extra one-year suspension for second time criminally convicted impaired drivers and an indefinite extension for subsequent convictions. The province can legislate the availability of provisional licences during the provincially mandated extensions, which means that this strategy could only be applicable to drivers on a second or subsequent conviction.

Drinking drivers who are able to avoid licence suspensions by opting for less severe interventions have worse subsequent records than do drivers who serve a suspension. Licensing conditions may be difficult to enforce as it is difficult for police to tell that a driver has a provisional licence, and it can be difficult to determine when a driver is operating legitimately for work purposes. Manitoba provides a work or hardship related provisional licence during the provincial component of a drinking driving suspension subject to approval by the licensing authority. Manitoba reports no enforcement concerns. However, that province will be requiring that drivers who have the provisional license also use an ignition interlock device as discussed below.

Strategy: Implement an Ignition Interlock Program

Ignition interlock devices installed on a vehicle require the driver to provide a satisfactory breath sample before the vehicle will start. Typically, the driver is restricted to the use of the interlock-equipped vehicle and pays the cost of the device.

One approach to the ignition interlock is provided under Section 259 of the Criminal Code. The Code gives the court discretion to allow the offender to drive a vehicle that is equipped with an ignition interlock device after serving a lesser prohibition of three, six or 12 months for first, second and third or subsequent Criminal Code convictions. This option is available only in provinces that have an ignition interlock program under provincial legislation. To adopt the Criminal Code model, British Columbia would have to reduce its mandatory provincial suspensions for drivers who participate in the ignition interlock program.

By contrast, Ontario has implemented ignition interlock in addition to, rather than as a way to reduce, provincial and criminal code license suspensions. It requires drivers to have an ignition interlock device installed for a minimum of one year after they serve their Criminal Code and provincial licence suspensions. Ontario's provincial suspensions are the same as British Columbia's. Convicted impaired drivers must also take the province's mandatory rehabilitation program.

Alberta, Quebec and Saskatchewan have interlock programs that reduce provincial or Criminal Code licensing sanctions by varying degrees. There are anecdotal reports that offenders have proven less likely to contest drinking driving charges.

Using the Ontario program as an example, the cost for a driver to participate in the program is $125 to install the device, $95 per month (minimum 12 months) lease fee and $25 to remove.

To date, studies evaluating interlock programs tend to show that the device is an effective means to reduce recidivism during the period it is installed. Program participants have rates of repeat offences 40 to 95 per cent lower than a group of offenders serving the full suspensions (ICADTS, 2001). However the studies also suggest that when the devices are removed, repeat offence rates for the two groups are the same, or may be even higher in the case of first offenders in an interlock program (Vézina, 2002).

A balanced approach to ignition interlock would:

- permit first offenders to serve a lesser suspension (e.g. six months) followed by a minimum six-month term in an ignition interlock program;
- require second and subsequent offenders to serve the entire three-year or ten-year provincial suspension followed by a minimum one-year of participation in an ignition interlock program;
- allow the Office of the Superintendent of Motor Vehicles to refer drivers to an interlock program who have a drinking problem as reported by a physician or a serious drinking and driving record based on 24-hour or 90-day administrative prohibitions

In any case, the driver would have to pass an alcohol use assessment to leave the ignition interlock program.

Strategy: Establish provincial offences under the Motor Vehicle Act for impaired driving and refusing a breathalyzer that would entail a short (e.g. 90-day) driving prohibition, provisional licensing during the prohibition period for work purposes, a mandatory fine and ignition interlock (nine months).

Police would have a new alcohol-related offence they could recommend if they do not consider Criminal Code charges to be warranted. The charge would be subject to Crown counsel charge approval policies.

The new offences would also be available to the Crown counsel when an accused is prepared to plead guilty to a provincial offence rather than go to trial on a criminal offence. Currently, in this circumstance, an accused may plead guilty to the Provincial offence of driving without due care. The new offence would be a preferable plea since it would reflect the public safety risk of the underlying behaviour (i.e., drinking and driving).

Crown would establish policy as to the circumstances in which the plea may apply or be accepted, considering, for example, the offender's:

- previous drinking and driving record
- BAC level
- whether the drinking and driving involved a crash

Rehabilitation

Every Canadian province except British Columbia has a compulsory rehabilitation program that applies to convicted impaired drivers.

Some experts caution that it is important not to view the treatment of offenders as a replacement for broader deterrence strategies in the attempt to reduce alcohol-related crashes. They cite research suggesting that, even if all alcohol-related fatal crashes involving previous offenders were eliminated, the majority of drinking-related fatal crashes would remain. Drinking drivers who have never been caught are just as likely to be involved in a motor vehicle accident as are repeat offenders and, as a group, cause more accidents. There are a large number of drinking drivers at risk for accidents who are not detected or apprehended (Perrine, M.W., Peck, R.C., Fell, J.C., 1989; Edwards et al, 1995; Chamberlain, E., Solomon R., 2001).

Rehabilitation programs apply to just a small proportion of drinking drivers, but have been found to reduce *repeat* drinking driving convictions and crashes by up to 25 per cent, with an average effect being a seven to nine per cent reduction (Wells-Parker, et al., 1995). Individual offenders benefit from a rehabilitation program combined with licence suspensions, but rehabilitation is not an effective replacement for suspensions (Ross, 1992).

More effective drinking driver rehabilitation programs:

- have assessment, education and treatment components
- assess the offender's substance misuse problem and stream the offender to education or treatment depending on the specific problem
- provide some flexibility for an offender who needs therapy to choose the type
- assess the offender to follow up on the effectiveness of education or treatment before re-licensing

Some programs require drivers who have multiple administrative prohibitions to participate in rehabilitation because of the increasing trend to use these measures as opposed to criminal sanctions. Programs in Ontario, Manitoba and Saskatchewan that have proven effective for criminally convicted drinking drivers have recently been expanded to apply to drivers with multiple 24-hour provincial suspensions.

Eighty per cent of British Columbians believe that convicted impaired drivers should complete a program of assessment and treatment before being re-licensed (ICBC, Quarterly Transportation Safety Survey, Fall, 2002).

Rehabilitation Issues and Strategies

Issue: British Columbia has no compulsory program to address the drivers who drink and drive because they have a drinking problem.

Strategy: Implement a user pay rehabilitation program in British Columbia for drivers who have:

- any Criminal Code drinking and driving conviction
- any 24-hour driving prohibition or 90-day administrative driving prohibition within two years after a Criminal Code drinking and driving conviction
- any combination of three 90-day administrative driving prohibitions and 24-hour driving prohibitions within two years

A program of this scope would apply to approximately 12,000 suspended or prohibited drivers annually, who would have to complete education or treatment and pass an addiction assessment in order to re-obtain a licence. About 20 per cent of the drivers referred to the program would require more intense treatment to pass the addiction assessment, creating an increased demand on the provincial addiction care system.

As a means to explore the range of available options and delivery strategies, the province may consider inviting expressions of interest and qualifications from external parties.

4. A WORKING MODEL

While the response to this discussion paper will help form the specific measures that government ultimately adopts, the following are those out of the strategies previously canvassed that the province views as providing a "working model".

Public Education and Awareness

Broaden public education and awareness messaging and optimise the use of existing resources by:

- exploring and developing internal and external partnerships
- once established, the partnership developing a strategic plan to make drinking and driving messaging more complete and effective.

Enforcement

Revitalise the province's drinking and driving enforcement strategy, having regard to:

- enhancing the availability of enforcement officers,
- strategic deployment
- data gathering to support strategic enforcement
- training

Sanctions

Increase the consequences for drivers with multiple 24-hour driving prohibitions by:

- establishing a 24-hour prohibition based on the results of a roadside screening device, and mandating that two such prohibitions will lead to a 90-day prohibition.

Provide controlled access by drinking drivers to provisional licensing via a balanced, full user pay approach to ignition interlock providing:

- six-months relief from the provincial one-year license suspension for a first criminal drinking and driving offender,
- a one year period of interlock after a second or subsequent offender serves the full provincial suspension, and
- the option for the Office of the Superintendent of Motor Vehicles to use interlock with other serious drinking drivers.

Provide provincial infractions that reflect the public safety concern associated with drinking and driving by:

- establishing provincial offences for impaired driving and refusing a breathalyser that can be used in circumstances when criminal charges are not warranted or it is feasible to accept a plea to a provincial offence.

Managing the Opportunity to Drink and Drive

Explore opportunities to enhance control of the choice to drink and then drive at the point of service by:

- reviewing and enhancing the "Serving it Right" program
- consulting with industry regarding enhancements to designated driver programs.

Rehabilitation

Treat a drinking problem when it is at the root of a drinking and driving problem by:

- establishing a full user pay compulsory rehabilitation program for criminally convicted drinking drivers and those who have serious records of administrative driving prohibitions
- exploring drinking driver rehabilitation options by inviting expressions of interest and qualifications respecting the development of a program model for British Columbia

5. CONCLUSION

A Note on Funding

Changes and enhancements to drinking and driving programs will require funding to develop, implement and administer. A number of funding sources will have to be considered for example, user pay, consumers of alcohol and automobile insurance customers. Once specific proposals are identified and funding requirements known, government will be in a better position to consider the options.

Questions to keep in Mind

This consultation document discusses a number of ideas about how to improve British Columbia's approach to the drinking and driving problem. Its purpose is to generate discussion and input. Some questions that might be considered in reviewing that input include:

- Which of the strategies presented are the preferred ones and why?
- Are there other strategies that should be considered, why?
- How do we pay for these programs?

The results of this consultation will be instrumental in development of specific proposals and an effective plan to attack the drinking and driving problem in British Columbia.

6. REFERENCES

Beirness, DJ, Foss, RD, Wilson, RJ and Mercer, GW. (2000). Roadside survey to assess the impact of an enhanced DWI enforcement campaign in British Columbia. Proceedings, T2000, International Council on Alcohol, Drugs and Traffic Safety, Stockholm, May 22-26, 2000.

Beirness, DJ, Simpson, HM and Desmond, K. (2002) The Road Safety Monitor, 2002, Drinking and Driving, Ottawa, Traffic Injury Research Foundation.

Chamberlain, E. Solomon R. The tooth fairy, Santa Claus, and the hard core drinking driver. (Special report). Injury prevention 2001; 7(4):1-5.

Chamberlain, E and Solomon, R. (2002) The case for a 0.05% criminal law blood alcohol concentration limit for driving. MADD Canada: http://madd.ca/library/point5limit.PDF

Edwards G. et al. Public safety and drinking within particular contexts. In: Alcohol policy and the public good. Oxford University Press: Oxford, 1995:153-167.

Elder, RW, Shults, RA, Sleet, DA, Nichols, JL, Zaza, S and Thompson, RS. (2002). Effectivness of sobriety checkpoints for reducing alcohol-involved crashes. *Traffic Injury Prevention,* 3, 266-274.

ICADTS (2001). Alcohol Ignition Interlock Devices I. Position Paper, The ICADTS Working Group on Alcohol Interlocks.

Mayhew, DR, Brown, SW and Simpson, HM. (1996). Alcohol Use among Drivers and Pedestrians Fatally Injured in Motor Vehicle Accidents, Canada, 1994. Ottawa, Traffic Injury Research Foundation.

Mayhew, DR, Brown, SW and Simpson, HM. (2002). The Alcohol Crash Problem in Canada:2000. Ottawa, Traffic Injury Research Foundation.

Ministry of Attorney General (2000). Traffic Services Study, final report. Safe roads, safe communities. Victoria, BC. Ministry of Attorney General, Public Safety and Regulatory Branch, Police Services Division.
http://www.pssg.gov.bc.ca/police_services/publications/saferoads.pdf

Nichols, JL and Ross, HL (1989). The effectiveness of legal sanctions in dealing with drinking drivers. In: Surgeon General's Workshop on Drunk Driving, Background Papers, US Department of Health and Human Services, 93-112.

Perrine MW, Peck RC and Fell JC. Epidemiologic perspectives on drunk driving. In: Surgeon General's workshop on drunk driving. US Department of Health and Human Services: Rockville, MD, 1989.

Ross, HL. (1982). Deterring the drinking driver. Legal policy and social control. Lexington, MA, Lexington.

Ross, HL (1992). Confronting drunk driving. Social policy for saving lives. New Haven CN, Yale University Press.

Shults, et al., (2001) Reviews of evidence regarding interventions to reduce alcohol-impaired driving. *American Journal of Preventative Medicine,* 21 (4S).

Simpson, HM, Mayhew, DR and Beirness, DJ. (1996). Dealing with the Hard Core Drinking Driver. Ottawa, Traffic Injury Research Foundation.

Simpson, HM and Robertson, RD (2002). DWI Systems Improvements for Dealing with Hard Core Drinking Drivers. Prosecution. Ottawa, Traffic Injury Research Foundation.
Vézina, L. (2002). The Québec alcohol ignition interlock program: impact on recidivism and crashes. In: Mayhew, D and Dussault, C. (eds). Proceedings of the 16th International Conference on Alcohol, Drugs and Traffic , Montreal, August 4-9, 2002.

Vingilis, E (1983). Drinking drivers and alcoholics: are they from the same population? In: Smart, R, Glasser, F and Israel, Y (eds). *Research Advances in Alcohol and Drug Problems*, Vol. 7, New York, Plenum, pp. 299-342.

Wells-Parker, E., Bangert-Drowns, R., McMillan, DL, and Williams, M. (1995). Final results from a meta-analysis of remedial interventions with drink-driving offenders. Addiction, 90, 907-926.

Appendix 1: The Drinking and Driving Problem in British Columbia

Injuries and Deaths

Up to now, British Columbia's main approach to the prevention of drinking and driving has been deterrence-based, combining concentrated enforcement, significant penalties and intense public education and awareness campaigns to highlight these activities:

- Drinking and Driving CounterAttack started in 1977 and was expanded in 1996.
- Ninety-day administrative driving prohibitions were introduced in May 1997 for drivers who fail or refuse a breath test.
- Mandatory one-year, three-year and indefinite licence suspensions for first, second and third and subsequent drinking driving related criminal code convictions were introduced in the fall of 1997.

Trends show that the deterrence-based approach has been successful over the long term. In 1977, about 55 per cent of passenger vehicle fatalities involved a driver whose blood alcohol contents (BAC) was over 80 mg%. This figure peaked at 65 per cent in 1981, but had dropped to just over 30 per cent by 2000[2] (Mayhew, Brown and Simpson, 1996; 2002).

Figure 1 shows an overall decline from 1987 to 2001 in the percentage of injury traffic crashes involving a driver who had been drinking. Figure 1 also shows a decline from 1987 to 1999 in the percentage of fatal traffic crashes. Drinking was a factor in 33 per cent of fatal accidents and 15 per cent of injury accidents in 1987, dropping to 29 and ten per cent respectively by 2001.

There was no improvement, however, in the number of alcohol related fatalities between 1999 and 2000, and the number rose by 26 per cent in 2001. Preliminary figures for 2002 suggest that the number of alcohol-related injuries and fatalities has returned to 2000 levels, but the steep gains of the past ten years have levelled off.

[2] Up to and including 1986, the data include automobile drivers only. After 1986, drivers of all motor vehicles, both on-road and off-road are included.

Figure 1: Percentage of fatal and injury crashes involving a drinking driver

Figure 1 data based on all police-reported fatal crashes and police-attended only injury collisions in Traffic Accident System (TAS) maintained by ICBC. Includes alcohol-related crashes in which vehicle drivers were assigned the alcohol factor (excludes those where pedestrians and other non-drivers were the only drinking entities)

British Columbians Still Drink and Drive

British Columbians view drinking and driving as a serious problem. In a December 2002 survey the Traffic Injury Research Foundation (Beirness, Simpson and Desmond, 2002), 80 per cent of provincial respondents saw drinking and driving as a serious social issue and the most important road safety issue. People ranked drinking and driving as a greater concern, for example, than school violence, the state of the health care system, taxation rates and the threat of a terrorist attack.

However, British Columbians did not view the problem as seriously as did people in other regions of the country. Eighty-six per cent of Ontarians and 90 per cent of Quebecers viewed the problem as serious.

The survey also found that British Columbians reported drinking and driving more than in any other region of the country. Provincially, 18.1 per cent of drivers reported driving at least once in the previous month within two hours of having consumed one or more drinks, and 11.3 per cent reported driving when they felt impaired. In Ontario, just 5.4 per cent of surveyed drivers reported having driven when they felt impaired.

A 1998 night-time road-side survey looked at drivers in British Columbia on Wednesday through Saturday evenings between the hours of 9:00 p.m. and 3:00 a.m. (Beirness et al., 2000). Two surveys were conducted, one in the spring, and one in the fall after an intensive CounterAttack enforcement campaign. Drinking and driving fell after the CounterAttack campaign but remained a problem:

- 2.4 per cent of drivers in the spring and 1.5 per cent in the fall had a BAC over the criminal legal limit of 80 mg%
- 2.2 per cent and 1.6 per cent respectively had a BAC between 50 mg% and 80 mg%
- 10.2 per cent and 9.6 per cent respectively had a BAC between 5 mg% and 49 mg%

As might be expected, the problem was more common on weekends. For example, 12.5 per cent of surveyed drivers on a Wednesday evening had positive BACs compared to 23.1 per cent on a Saturday evening.

Based on information from the night-time survey, the number of trips by drivers with BACs in excess of 80 mg% is estimated to be a minimum of 2.5 million annually in British Columbia.

The largest proportion of people who drink and drive have not been previously convicted or otherwise sanctioned for the behaviour. Of 4,312 criminal code convictions for impaired driving or exceeding a BAC of 80 mg% in 2000, 86.5 per cent had no convictions for impaired driving offences in the previous 5 years, and 74.2 per cent had no convictions in the previous 10 years. Just 26 per cent were recidivists within the past ten years. Of the 42,275 drivers in 2000 who were prohibited from driving for 24 hours because their ability to drive was judged to have been affected by alcohol or another drug, only 37 per cent (15,696) had a previous conviction or had received another prohibition in the previous 24 months.

BAC Levels and Driving Risk

It is also important to note that the elevated safety risk associated with drinking and driving is not restricted to drivers who exceed criminal BACs. The table below shows how the likelihood of being involved in a single vehicle fatal crash increases with increasing BAC for males in different age groups.

Relative Likelihood of a Single Vehicle Fatal Crash (Zador, et al, 1991)

	BAC 20 – 49 mg%	*BAC 50 – 79 mg%*	*BAC 80 – 99 mg%*	*BAC 100 – 149 mg%*
AGE 16 – 20	4.64	17.32	51.87	240.89
AGE 21 – 34	2.75	6.53	13.43	36.89
AGE 35+	2.57	5.79	11.38	29.30

The numbers in the table indicate how many times more likely a driver at the given BAC level is to be involved in a single vehicle fatal crash compared with a driver of the same age with a zero BAC.

The data indicate that the combination of inexperienced drinking and inexperienced driving is deadly. As well, regardless of age, the crash risk increases more steeply as BAC increases, reaching exponential proportions at 80 mg% and beyond.

Importantly, the data also show that the risk of being involved in a fatal single vehicle crash is substantially elevated even at BACs below the criminal legal limit. Further, because the courts have allowed a +20 mg% "margin of error" in the BAC tests, Crown policy is not to approve charges unless the driver's BAC readings are over 100 mg%.

APPENDIX 2: Current Measures/Programs Deployed in British Columbia

Program Type	Name of Program	Description of Program
Public Education and Awareness	• Drinking Driving CounterAttack advertising	• ICBC developed advertisements that are used as PSAs during CounterAttack campaigns. ICBC funds development.
	• Broadcaster's of BC Public Service Announcements (PSAs)	• Average monthly donation of $100,000 of television and radio time in 2001.
	• Roadsense curriculum materials	• ICBC developed resource package for High School Teachers
	• C.A.R.S. BC (Youth CounterAttack and Roadsense Society of BC)	• Jointly sponsored/funded by the Autoplan Brokers and ICBC to support youth clubs in developing and delivering messages, events and programs to reduce injury and death from crashes
	• Roadsense Team Youth Grants	• Promoted and delivered by C.A.R.S. BC
	• Roadsense Youth Scholarships	• Promoted and delivered by C.A.R.S. BC
	• Roadsense Speakers Package	• ICBC screens, organizes and provides materials about speakers for schools and community groups. Schools and community groups pay for the cost of the speaker
Managing the Opportunity to Drink and Drive	• Serving it Right Program	• Operated by the Hospitality Industry Educational Advisory Committee, as a requirement of the Liquor Control & Licensing Act.
	• Operation Red Nose	• Volunteer driving service provided at Christmas and organized at the community level. ICBC acts as sponsor and provides printed material
	• Get Home Safe Program	• ICBC works with organizations and community groups that are hosting events where alcohol is being served to encourage participants to plan safe methods of getting home
	• Safe Ride Home Program	• Partnership between ICBC and BC Liquor Stores to offer transit tickets to beer and wine festival goers
	• Designated Driver Program	• Encourages the use of a pre-selected person to remain sober and drive. May involve incentives such as free soft drinks.
Enforcement	• Impaired driving law enforcement	• Police agencies enforce impaired driving laws throughout the year with special emphasis during CounterAttack campaign periods.
	• CounterAttack	• Enforcement levels have been enhanced in recent years through additional funding provided by ICBC.

Sanctions	• Criminal Code of Canada Drinking and Driving Convictions	• First conviction, $600 fine, 1 year prohibition • Second conviction, 14 days in jail, 2 year prohibition • Third+ conviction, 90 days jail, 2+ years prohibition
	• Motor Vehicle Act Sanctions for Criminal Code Drinking and Driving Convictions	• Any conviction, 1 year automatic driving prohibition • First conviction, 1 year driver licence suspension • Second conviction, 3 year driver licence suspension • Third and subsequent conviction, indefinite driver licence suspension (the legislation allows this suspension to be reduced to 10 years if the driver successfully completes an approved rehabilitation program, but the province does not yet have an approved program.)
	• Administrative Driving Prohibitions and Sanctions	• 24-hour driving prohibition at roadside if police have reason to believe driving ability is affected by alcohol • 12 hour driver licence suspension for novice drivers who violate zero alcohol tolerance restriction. The novice driver may receive an additional discretionary prohibition from the Superintendent of Motor Vehicles. • 90 day administrative driving prohibition (ADP), for BAC exceeding 80 mg% or refusing a breath test, effective 21 days after the event subject to a review by the Office of the Superintendent of Motor Vehicles • Superintendent of Motor Vehicles' discretionary prohibitions for a bad driving record including multiple drinking and driving convictions, ADPs and 24-hour prohibitions
Rehabilitation	• Superintendent of Motor Vehicles Driver Fitness Program	• 600 to 800 serious multiple offenders annually are required to pass an addiction assessment before getting a licence back after a driving prohibition

APPENDIX 3: Synopsis: Proposed Strategies to Reduce Impaired Driving in British Columbia

Program Type	Strategy	Purpose
Public Education and Awareness	• Expand the scope of drinking and driving messaging	• Increase general public awareness of issue, consequences and sanctions of impaired driving
	• Increase impaired driving education in secondary schools	• Increase awareness of drinking and driving issues among youth.
	• Develop a strategic plan and partnerships	• Coordinate amongst partner agencies involved in the issue to ensure complete, consistent messaging and optimal use of existing resources
Managing the Opportunity to Drink and Drive	• Review and enhance server intervention training (Serving it Right) programs	• Consistent training and follow up exams to increase effectiveness of program
	• Promote designated driver programs within serving establishments	• Increase incentives for designated drivers subject to reasonable costs of establishments • Creates consistent and positive messaging about alternate choices and options
Enforcement	• Revitalize provincial drinking and driving enforcement plan	• Enhance availability of officers, flexibility and strategic approach to enforcement planning, police training (e.g., to recognize impairment)
	• Issue administrative driving prohibitions based on the results of an approved roadside screening device	• Reduces time and resource requirements for police to issue the administrative driving prohibition, and increases their use when a drivers' blood alcohol content warrants
Sanctions	• Establish a 24-hour driving prohibition linked to a 50 mg% BAC as measured by an approved roadside screening device. Mandate an automatic 90-day driving prohibition for two such 24-hour prohibitions.	• Increase consequences for 24-hour prohibitions
	• Expand Administrative Driving Prohibition (ADP) program to apply to driver who registers a BAC of 50 mg% within three hours of driving	• Deal with increased accident risk at BACs below the criminally culpable level of 80 mg%

Sanctions (continued...)	• Allow provisional driver's licences for work purposes for 2nd+ time offenders	• Motivate drinking drivers to accept the consequences of the behaviour
	• Implement ignition interlock program	• Motivate drinking drivers to accept the consequences of the behaviour • Allow for extended monitoring of repeat offenders
	• Establish provincial offences under the Motor Vehicle Act for impaired driving and refusing to provide a sample that would entail lesser penalties than the criminal code	• Provide "drinking driving" offence options for circumstances when a criminal charge is inappropriate or plea resolution is sought
Rehabilitation	• Implement a user-pay rehabilitation program for drivers who have: any CCC conviction; any administrative prohibition within two years of a CCC conviction; any combination of three administrative driving prohibitions (24-hour or ADP) within two years	• Treat the drinking problem when it is at the root of a drinking driving problem
	• Issue a request for qualifications and expressions of interest in developing a rehabilitation program	• Explore rehabilitation program contents and delivery options